

**IN THE UNITED STATES DISTRICT COURT OF THE
SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION**

IN RE: DIGITEK LITIGATION

MDL NO. 1968

THIS DOCUMENT APPLIES ONLY TO:

**Edward G. Elias, Individually and as
Representative of the Estate of Pearl
Louise Elias, and for all Wrongful
Death Beneficiaries,**

No. 2:09-cv-01041

Plaintiff,

v.

Actavis Totowa, LLC, et al.,

Defendants.

**SECOND (EMERGENCY) APPLICATION TO APPEAR TELEPHONICALLY
AT NOVEMBER 17, 2010 DOCKET CONFERENCE & DECLARATION
OF HADLEY A. HUCHTON IN SUPPORT**

Plaintiff's attorney, Hadley A. Huchton seeks permission to appear telephonically at the Docket Conference scheduled in the above referenced matter on November 17, 2010 at 9:00 a.m., and would show as follows:

1. The Court denied Plaintiffs' attorneys' first application to appear telephonically on 11/17/10.
2. On November 12, 2010. Plaintiffs' attorneys filed a Motion to Withdraw based on conflict. That Motion is pending.
3. On November 15, 2010, Plaintiffs' attorney, Walter L. Boyaki was hospitalized via the ER for numbness of the hand and possible TIA (transient ischemic attack). He is currently

admitted at Providence Memorial Hospital, El Paso, Texas.

4. In order to personally attend the November 17, 2010 status conference in West Virginia, Hadley A. Huchton must fly there on November 16, 2010, leaving El Paso at 7:00 a.m. However, due to Mr. Boyaki's hospitalization, Ms. Huchton must cover all matters pending in the firm's cases from November 16, 2010 through November 19, 2010.

5. If the Court grants Plaintiffs' Attorneys' Motion to Withdraw, then Plaintiffs will need to appear pro se telephonically on November 17, 2010.

6. Plaintiffs' attorney Hadley A. Huchton seeks leave to appear telephonically on November 17, 2010 to state the status of this case.

7. Local Rule 78.1 permits an attorney to appear telephonically with Court approval.

Ms. Huchton seeks such approval here.

8. If permission to appear telephonically is granted, Ms. Huchton will make arrangements with the Court clerk to work out a procedure, either through Court Call or other court-preferred method.

DATED: November 15, 2010.

Respectfully submitted,

/s/ Hadley A. Huchton

WALTER L. BOYAKI

State Bar No. 02759500

HADLEY A. HUCHTON

State Bar No. 00785980

Miranda & Boyaki

4621 Pershing Drive

El Paso, Texas 79903

(915) 566-8688

(915) 566-5906 fax

ATTORNEYS FOR PLAINTIFF

DECLARATION OF HADLEY A. HUCHTON

I, Hadley A. Huchton, declare:

1. I am an attorney authorized to practice law in this case in the United States District Court for the Southern District of West Virginia and licensed to practice laws in the State of Texas. I, along with Walter L. Boyaki, represent Edward G. Elias, Individually and as Representative of the Estate of Pearl Louise Elias, and for all Wrongful Death Beneficiaries, in the above captioned litigation. The following facts are based on my personal knowledge and review of the file, and if called upon to testify, I would and could testify to the matters herein.

2. On November 12, 2010, Plaintiffs' attorneys filed a Motion to Withdraw based on conflict. That Motion is pending.

3. On November 15, 2010, Plaintiffs' attorney, Walter L. Boyaki was hospitalized via the ER for numbness of the hand and possible TIA (transient ischemic attack). He is currently admitted at Providence Memorial Hospital, El Paso, Texas.

4. In order to personally attend the November 17, 2010 status conference in West Virginia, I must fly there on November 16, 2010, leaving El Paso at 7:00 a.m. However, due to Mr. Boyaki's hospitalization, I must cover all matters pending in cases on November 16, 2010 through November 19, 2010.

If the Court grants Plaintiffs' Attorneys' Motion to Withdraw, then Plaintiffs will need to appear pro se telephonically on November 17, 2010.

I declare under penalty of perjury under the laws of the State of West Virginia and that foregoing is true and correct and that this Declaration was signed on November 15, 2010 in El Paso, Texas.

DATED: November 15, 2010.

Respectfully submitted,

/s/ Hadley A. Huchton

WALTER L. BOYAKI

State Bar No. 02759500

HADLEY A. HUCHTON

State Bar No. 00785980

Miranda & Boyaki

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El Paso, Texas 79903

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CERTIFICATE OF SERVICE

I certify that on the 15th day of November, 2010, the above and foregoing was forwarded to all attorneys of record by use of the Court's CM/ECF system.

/S/ Hadley A. Huchton

HADLEY A. HUCHTON